IN THE MATTER OF THE APPLICATION OF MARK S. BLANK, FOR A ZONING VARIANCE AND SPECIAL HEARING ON PROPERTY REISTERSTOWN RD, 103.34' NW OF C/L OF AUSTIN ROAD

(11719 REISTERSTOWN ROAD-

4TH ELECTION DISTRICT

COUNTY BOARD OF APPEALS

BALTIMORE COUNTY * CASE NO. 89-554-SPHA

* *

3RD COUNCILMANIC DISTRICT

This matter comes before the Board on an appeal from a decision of the Zoning Commissioner in which the requested variance was granted with multiple restrictions. The case was heard this day in its entirety.

Stuart D. Kaplow, Esquire, proffered to the Board on behalf of his clients, Dr. and Mrs. Mark S. Blank, as to the contemplated use of the property and as o the reasons the Zoning Commissioner's restrictions would prove to be an insurmountable difficulty with which to operate a dental practice. It should be noted that Dr. Blank was not present at the hearing and Mr. Kaplow explained that an unknown emergency arose which made it impossible for Dr. Blank to appear this date. After People's Counsel had been advised of this situation, the proffer was accepted by this Board. The proffer further indicated that the building was purchased in 1989 and sits on .37 acre located on Reisterstown Road in a commercial transition zone. Commercial uses exist on both sides of the property as well as across the street. A residence exists to the rear of the site.

Robert Rosenfelt, a Professional Engineer, testified that he did the site plan and a three-page exhibit of the Blank property

Case No. 90-554-SPHA Mark S. Blank, et ux

was introduced to the Board. This exhibit was further explained by Mr. Rosenfelt as to the existence of the parking area which would be located in the R.O. zone and that the size of the building restricts its uses. The basement of the building is unsuitable for office space due to the 7-foot ceilings which exist. He indicated that the lighting was directed at a downward angle and was shielded so as to not diffuse onto the adjoining residential property. Mr. Rosenfelt further indicated that by granting a variance to this site it would not conflict with the spirit and intent of the zoning regulations.

People's Counsel presented no adverse witnesses in this matter.

A review of the evidence and testimony in this matter indicates that the variance should be granted allowing 100 percent of the adjusted gross floor area of the office building to be occupied by dental offices in an R.O. zone in lieu of the permitted 25 percent.

For the reasons as set forth herein, it is this 22nd day of ______, 1990 by the County Board of Appeals of Baltimore County ORDERED that the requested Petition for Zoning Variance as stated above is GRANTED subject to the following restrictions:

1. Appellant shall provide or maintain a vegetative buffer in the area highlighted in yellow on Exhibit A appended hereto, and shall submit a landscape plan

Mark S. Blank, et, ux Case No. 90-554-SPHA

relative to this area to the Baltimore County Landscape Planner.

- 2. The D.R. 3.5 portion of the subject property shall not be used for parking.
- All exterior lighting shall be directed downward and shall be shielded so as to not diffuse onto any adjoining residentially used properties.
- 4. The basement area of the subject building may be used for storage; however, it shall not be used for office
- 5. The professional personnel is restricted to one dentist practicing with a non-professional staff of a receptionist/secretary, a dental hygienist, and a dental assistant on the subject site for the operation of a dental office. This restriction is not meant to limit a partner and/or associate of Dr. Blank from having office hours on this site when Dr. Blank is not on-site with office hours.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

> COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Arnold G. Foreman, Acting Chairman

AND ZONING VARIANCE - NE/S Reisterstown Road, 103.34' NW * ZONING COMMISSIONER of the c/l of Austin Road

(11719 Reisterstown Road) 4th Election District

* OF BALTIMORE COUNTY * Case No. 89-554-SPHA

Mark S. Blank, et ux Petitioners

3rd Councilmanic District

PETITIONS FOR SPECIAL HEARING

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing for a finding that the Zoning Commissioner has the authority to approve the use of more than 25% of the total adjusted gross floor area of an office building located in an R-O zone to be occupied by medical offices, and a variance to permit 100% of the adjusted gross floor area of the office building to be occupied by dental offices in lieu of the permitted 25%, all as more particularly described in Petitioner's Exhibit 2.

The Petitioners appeared, testified, and were represented by Stuart D. Kaplow, Esquire. Also appearing on behalf of the Petition was Robert Rosenfelt, a registered professional engineer. Appearing as an interested party was Phyllis Friedman, Esquire, People's Counsel for Baltimore County. There were no Protestants.

Testimony indicated that the subject property, known as 11719 Reisterstown Road, consists of 0.32 acres split zoned R.O. and D.R. 3.5, and is improved with a two-story Class A office building. The Petitioners, Mark S. Blank, D.D.S., and his wife, Carol B. Blank, seek a variance from Section 203.3.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 100% of the adjusted gross floor area of the subject property to be occupied by Mr. Blank's dental office in lieu of the permitted 25%. Petitioners have also petitioned for a special hearing under Section 500.7 to

determine whether the Zoning Commissioner has the authority to consider variances to the requirements of 3 ction 203.3.A.2. Mr. Kaplow proffered the testimony of the Petitioners and Mr. Rosenfelt.

Testimony indicated that Mr. Blank is currently operating a dental office in Laurel and is desirous of relocating his office to the subject building, which is located on the R.O. zoned portion of the property. The Petitioners purchased the property in 1988 prior to and unaware of the impending change to the R.O. regulations that would restrict the area available to support his dental practice to 25% of the gross floor area. Testimony and evidence established that the adjoining properties on Reisterstown Road are utilized as office buildings and Petitioner testified he knows of no opposition to the relief requested.

Mr. Rosenfelt testified by way of proffer that in his opinion, the relief requested in the special hearing may be granted by the Zoning Commissioner as the relief sought is an area variance and is clearly within the spirit and intent of Section 307.1 of the B.C.Z.R. He also stated that the subject property was no longer suitable for residential use as the surrounding community has largely converted to commercial uses. Mr. Rosenfelt's testimony also indicated that the Petitioners would suffer an undue hardship and practical difficulty should the requested variance be

matter, a determination as to whether the Zoning Commissioner has the authority to consider Petitions for Variances from Section 203.3.A.2 of the B.C.Z.R. Section 203.3 reads in part as follows:

203.3 -- Use Regulations:

A. Uses Permitted as of Right. The following uses only, are permitted as of right in any R-O zone:

1) Uses permitted as of right and as limited in D.R. 5.5 zones, or

2) Class A office buildings containing offices or medical offices and their accessory uses, including parking, except that no more than 25% of the total adjusted gross floor area of the office building may be occupied by medical offices.

The Petitioner contends, irrespective of the Section's heading, "Use Regulations," that Section 203.3.A.2 controls only the percentage of floor area a medical office may occupy in a building located in an R.O. zone, thereby rendering his request an area variance and not a use variance. Considerable discussion was directed to the issue of what constitutes an area variance as compared to a use variance as use variances are not permitted in Balt ore County. See Section 307.1 of the B.C.Z.R. and Loyola Federal Savings and Loan Assoc. vs. Buschman, et al, 227 Md. 243 (1961). The Maryland Court of Special Appeals addressed the distinctions between use and area variances in the case of Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. at 28 (1974). Judge Davidson, citing Buschman, 227 Md. 243 (1961), stated that the Court of Appeals has recognized a distinction between a use variance, which changes the character of the zoned district, and an area variance, which does not. Use variances are customarily concerned with "hardship" cases where the land cannot yield a reasonable return if used only in accordance with the Suse restrictions of the ordinance and a variance must be permitted to avoid confiscatory operation of the ordinance, while area variances are customarily concerned with "practical difficulty". Non-use or area variances (arise) where the owner engages in a permitted use but is allowed to build improvements that would otherwise violate the zoning statute. Rathkopf, the Law of Zoning and Planning, 38.01 {1}. Generally speaking, an area variance involves no change in the essential character of the

zoned district, therefore, the neighborhood considerations are not as strong as in a use variance...Rathkopf, supra at 38.04 {4}.

In Alumni Control Board v. Lincoln, 137 MW 2d 800 (NEB. 1965). cited in Rathkopf, supra, the Court, describing a difference between a use and area variance, stated:

> "A use variance is one which permits a use other than that prescribed by a zoning ordinance in a particular district. An area variance has no relationship to a change of use. It is primarily a grant to erect, alter, or use a structure for a permitted use in a matter other than that described by the restrictions of the zoning ordinances."

Also at issue is whether the Zoning Commissioner has the authority to consider variance requests from Section 203.3 regardless of whether the variance is characterized as a "use" or "area" variance, in view of the "Use Regulations" heading of the subject section. In Re: Petition for Variance, Howard Grossfield, et al, Case Nos. 83-10-ASPH and 82-189-V (April 26, 1984), the Baltimore County Board of Appeals (the Board) held that Section 203.3 of the B.C.Z.R. does not preclude the consideration of a request for variance concerning the size of signs pursuant to Section 203.3.C. The Board specifically stated that "Requests for variances concerning the size of signs could be classified as area variances". Grossfield, supra. In Balint v. County Board of Appeals of Baltimore County, Case No. 82-M-201, (December 5, 1984), the Circuit Court for Baltimore County, per Judge Hinkel, upheld a decision by the Board finding that a variance could be granted from Section 203.3.C (a subsection of the section here at issue) regarding sign requirements for R.O. zones. In the matter of Emanuel Glasser, M.D., Case No. 85-282-XA (October 9, 1985), the Board once again was required to address the issue of variance requests from Section 203.3. The Board, keeping consistent with the Balint case, held that:

> Section 307 empowers the Zoning Commissioner and the County Board of Appeals to hear Petitions requesting variances from height and area regulations, off-street parking regulations, and from sign regulations. Only the restrictions and residential transition areas, as addressed in Bill No. 124, 1981, are specifically denied the right to Petition for a Variance under Section 307.

In consideration of the above, the regulatory history and the testimony and evidence presented at the hearing, it is the opinion of the Zoning Commissioner that the 25% adjusted gross floor area requirement of Section 203.3.A.2 of the B.C.Z.R. is an area regulation, and therefore, the Petition for Special Hearing should be granted.

Petitioners have also requested a variance from Section 203.3.A.2 to permit the use of 100% of the adjusted gross floor area of the subject building to be occupied by Petitioner's dental practice.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome:
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

The Petitioners' variance request requires, as a preliminary

Blank Property Page 2 May 11, 1989

STORM DRAINS AND SEDIMENT CONTROL COMMENTS: (Con't)

Onsite drainage facilities serving only areas within the site are considered private. Therefore, construction and maintenance shall be the Developer's responsibility. However, a drainage area map, scale 1" = 200', including all facilities and drainage areas involved, shall be shown on a plan and submitted to Baltimore County for review.

The Developer must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

WATER AND SANITARY SEWER COMMENTS:

Permission to obtain a metered onnection from the existing main may be obtained from the Department of Permits and Licenses.

The Developer is responsible for the cost of capping or plugging any existing house connection not used to serve the proposed site.

The Developer will be given credit for one System Connection Charge for each existing house which is now connected into the public services.

Permission to connect to, or (to connect additional sanitary fixtures to) the existing public sanitary sewer may be obtained from the Department of Permits and Licenses.

The total Water and/or Sanitary Sewer System Connection Charge is determined, and payable, upon application for the Plumbing Permit. This Charge is in addition to the normal front foot assessment and permit charges.

This property is subject to Water and/or Sewer System Connection Charges based on the size of water meters utilized in accordance with current County Policy.

SIGNED: ROBERT W BOWLING

Robert W. Bowling, P.E., Chief Developers Engineering Division

RWB:pab

cc: File

BLANK/TXTCOMM2

Baltimore County Fire Department 800 York Road Towson, Maryland 21204-2586 (301) 887-4500

Paul H. Reincke

J. Robert Haines Zoning Commissioner Office of Planning and Zoning Baltimore County Office Building Towson, MD 21204



RE: Property Owner: Mark S. Blank, et ux

Location: NE/S Reisterstown Road, 103.34' NW of centerline of Austin Road

Item No.: 438

Zoning Agenda: April 25, 1959

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.



Maryland Department of Transportation State Highway Administration

Richard H. Trainor Hal Kassoff Administrator

June 12, 1989

Mr. J. Robert Haines Zoning Commissioner County Office Building Towon, Maryland 21204

Attn: Mr. James Dyer

Re: Baltimore County Mark S. Blank Property Zoning Meeting of 4-25-89 NE/S Reisterstown Road (MD 140) 103.34' West of Austin Road TItem:#438)

Dear Mr. Haines:

After reviewing the submittal for a Special Hearing to permit no more than 25 percent of the total adjusted gross floor area of an office building located in an R.O. Zone, we find the plan acceptable.

If you have any questions, please contact Larry Brocato at 333-1350.

Very truly yours,

creston J. Mills, Jr., Chief Engineering Access Permits Division

LB:maw

cc: Rosenfelt & Woolfolk, Inc. Mr. J. Ogle



ZONING OFFICE

Baltimore County
Department of Public Works Bureau of Traffic Engineering Courts Building, Suite 405 Towson, Maryland 21204 (301) 887-3554

Mr. J. Robert Haines

Zoning Commissioner

Towson, MD 21204

County Office Building

April 25, 1989



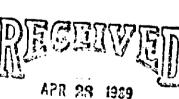
Dear Mr. Haines

The Bureau of Traffic Engineering has no comments for items number 424, 425, 426, 427, 428, 429, 430, 431, 432, 434, 435, 436, 437, 428, 439, 440, 441, 442, 443, 444, 445, 446, 447, and 448.

Very truly yours,

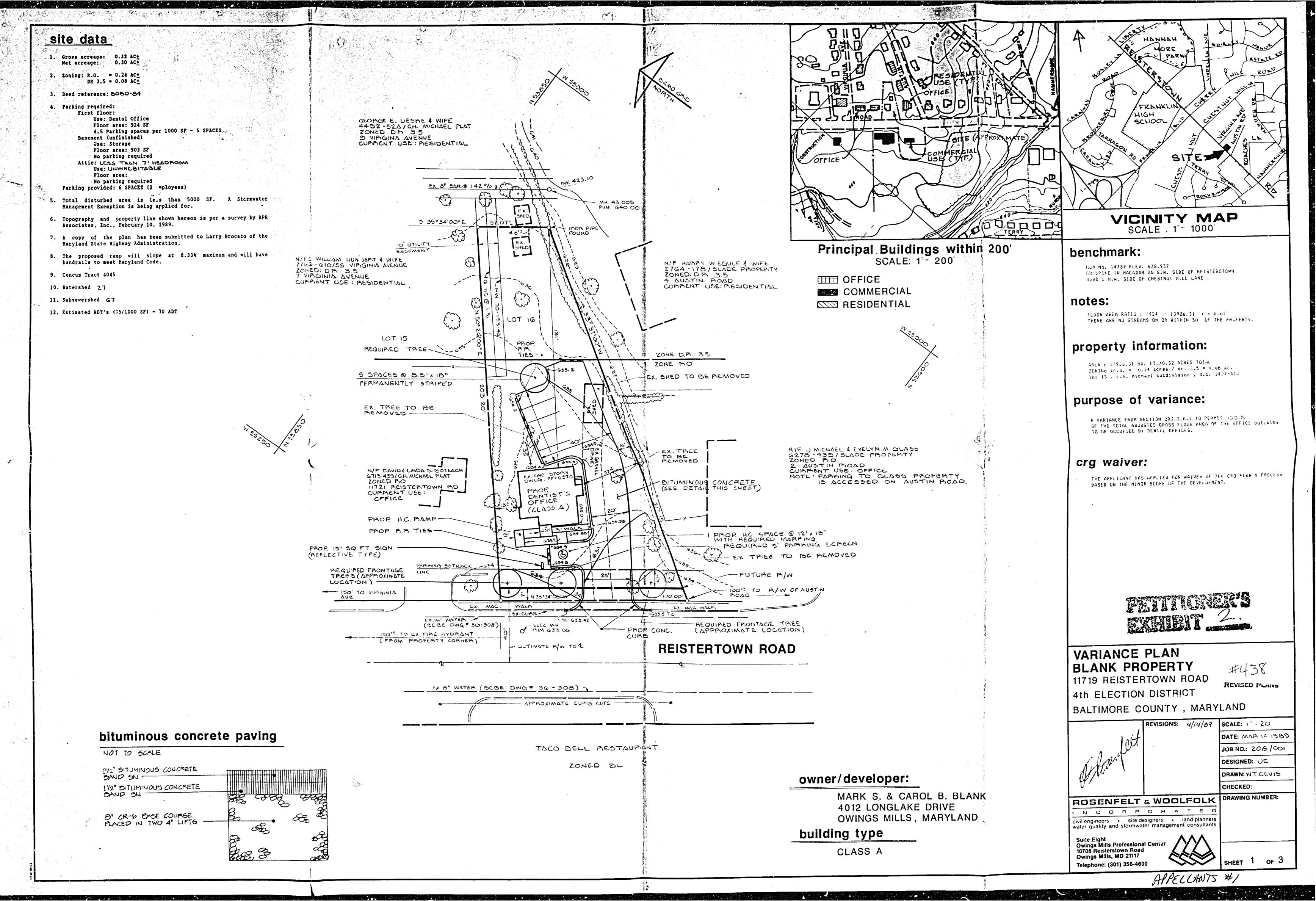
Michael S. Flanigan Traffic Engineer Assoc. II

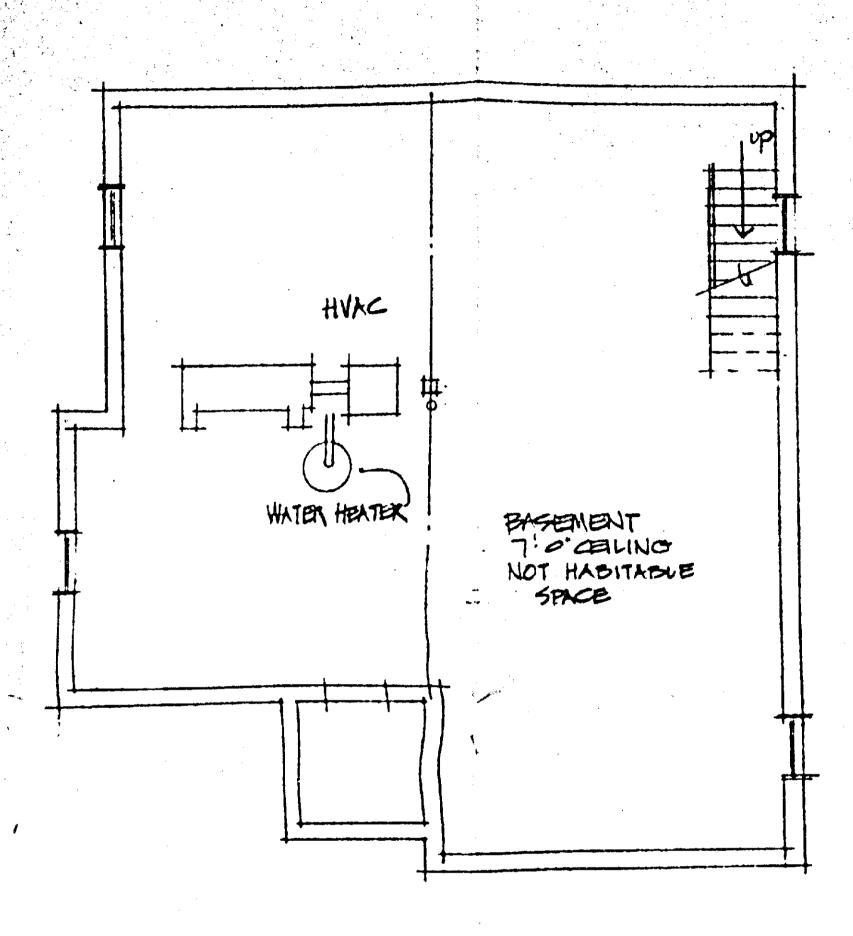
MSF/lab



My telephone number is (301) 333-1350

Teletypewriter for impaired Hearing or Speech 383-7555 Baltimore Metro - 565-6451 D.C. Metro - 1-800-492-5062 Statewide Toll Free 707 North Calvert St., Baltimore, Maryland 21203-0717

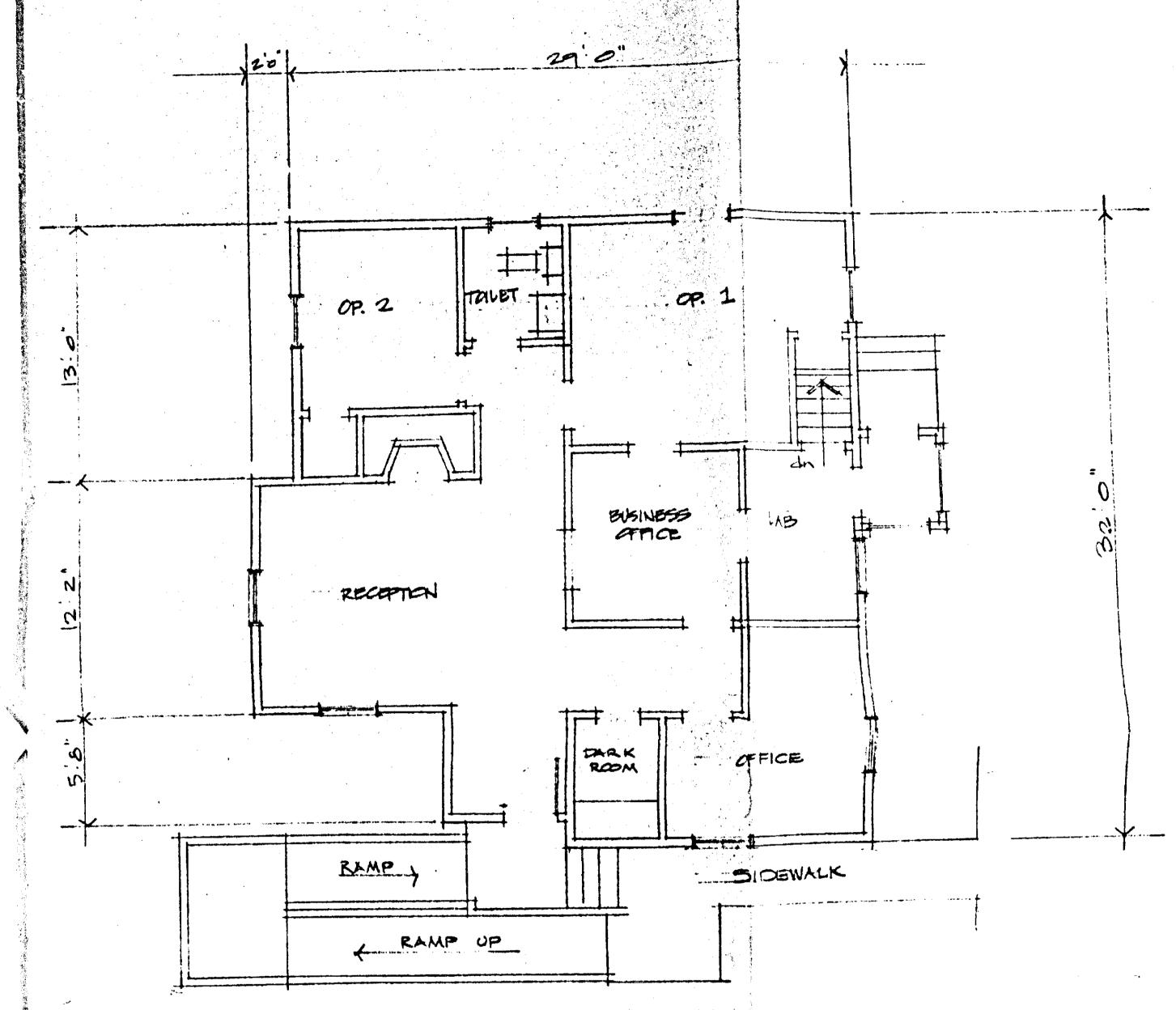




BASEMENT PAN scale 14"=1'0"

PROPOSED USE; 100% storage

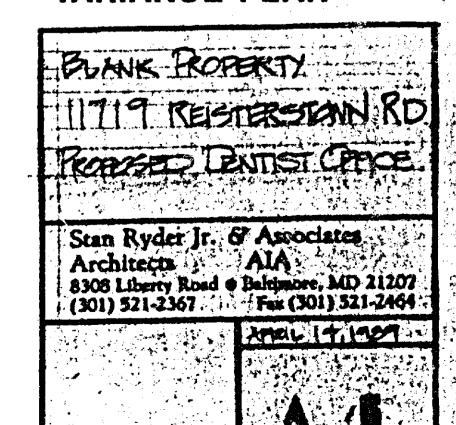
note: dwelling has not been enlarged by 10% or more within 5 years prior to application



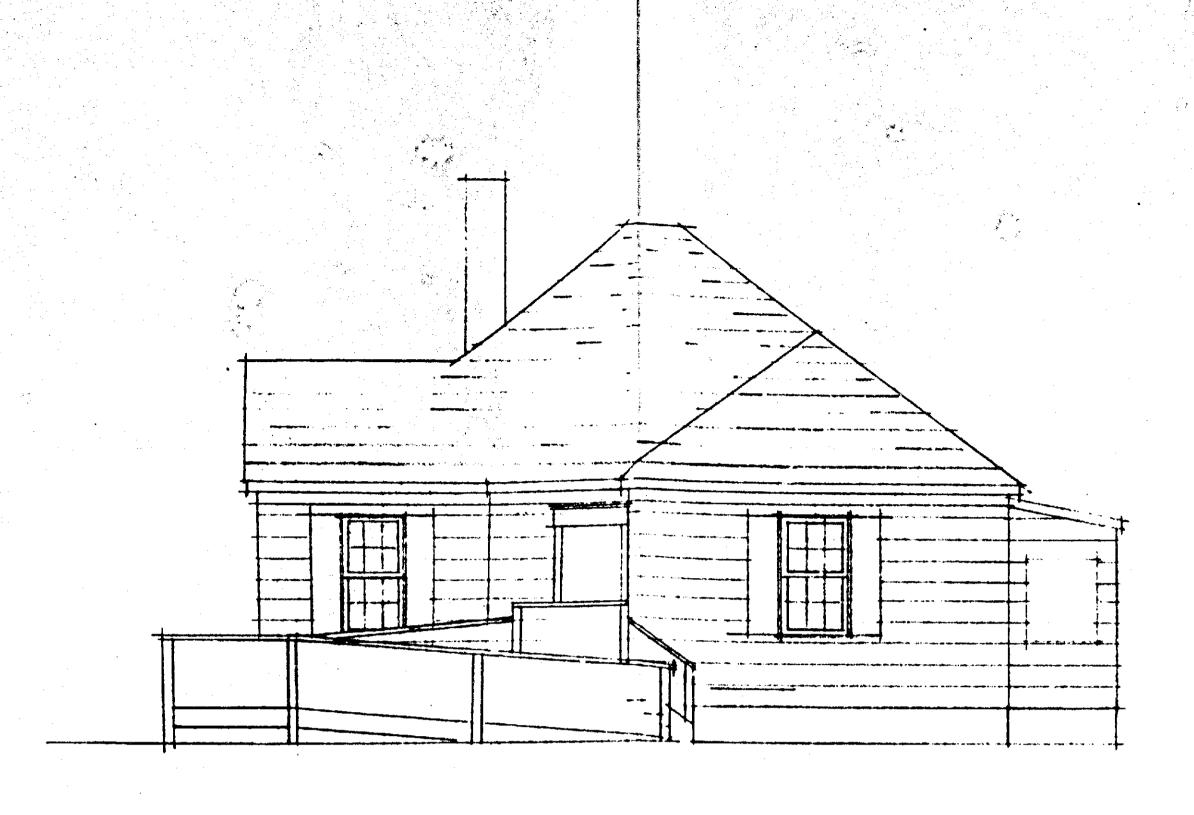
FIRST FLOOR PAN SCALE 1/4"=1"0"
PROPOSED USE: 100% medical offices



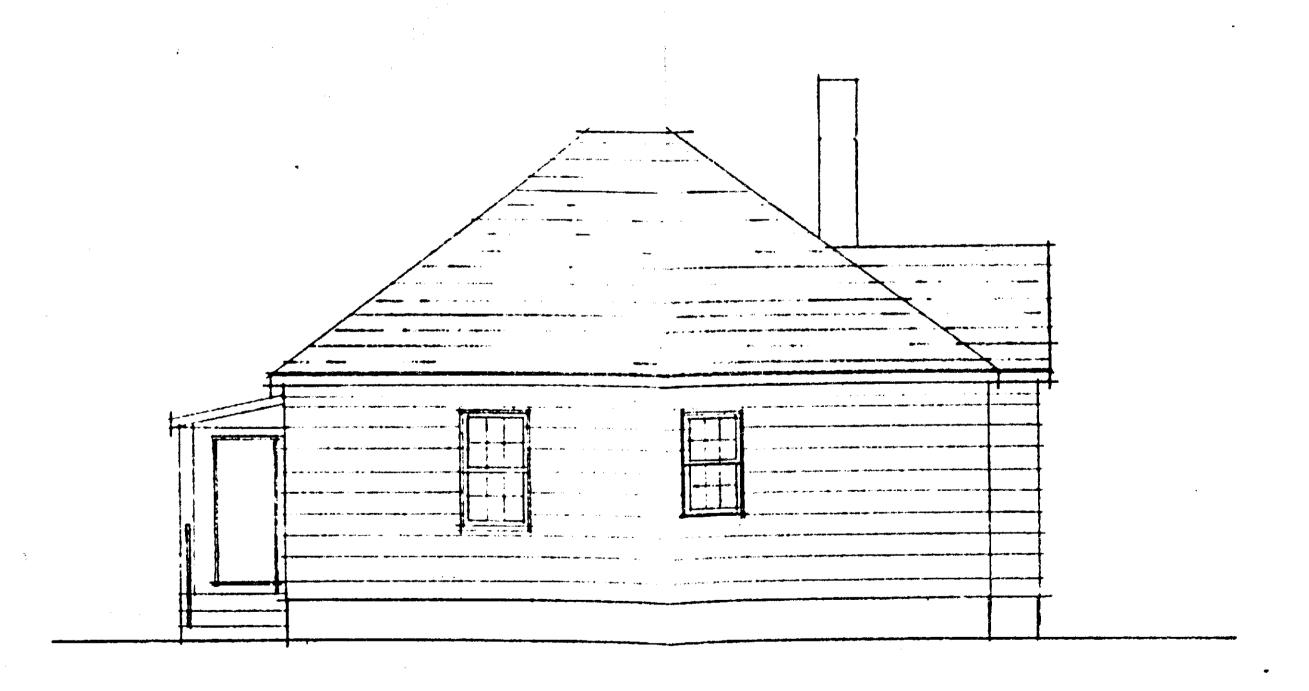
VARIANCE PLAN



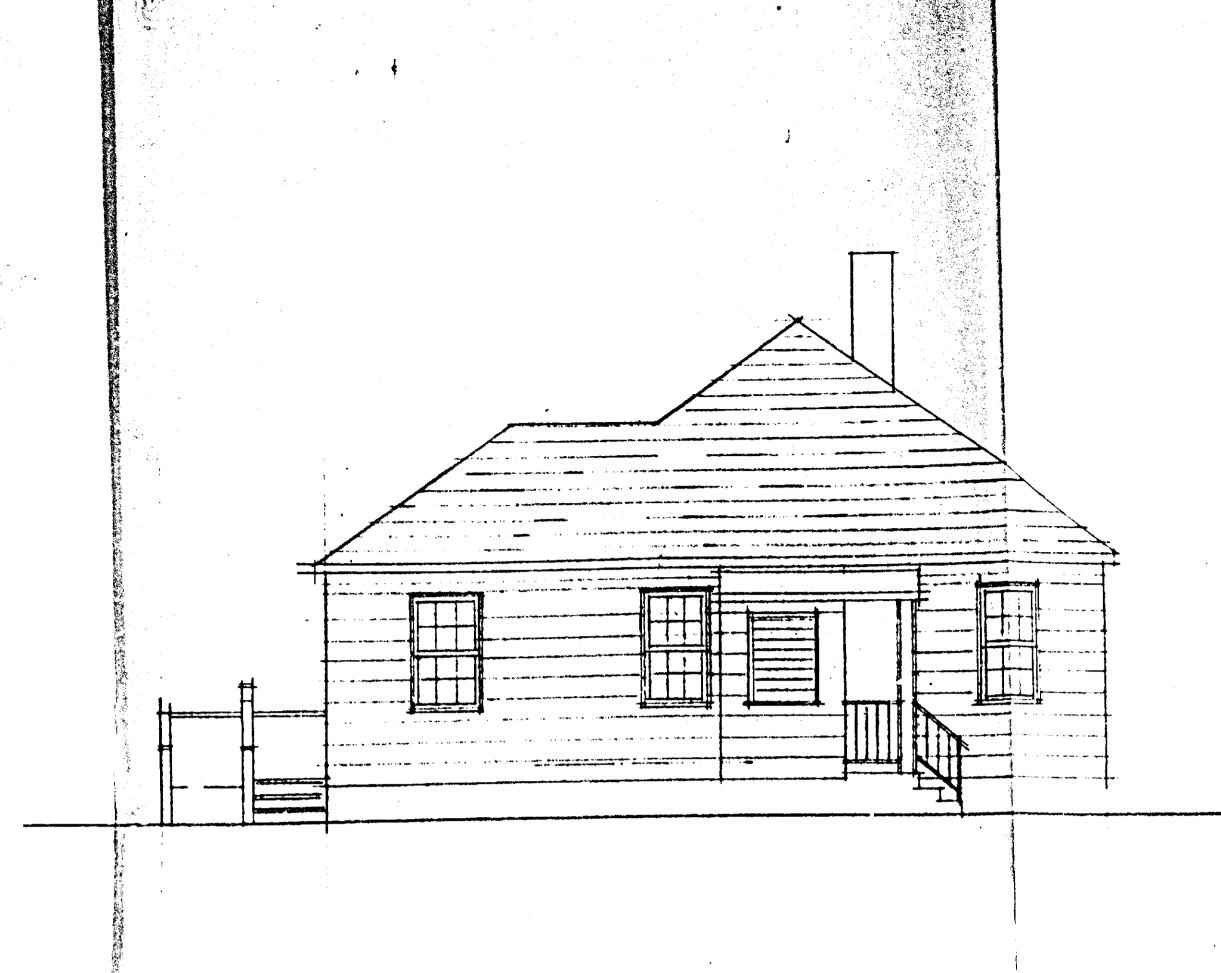
951



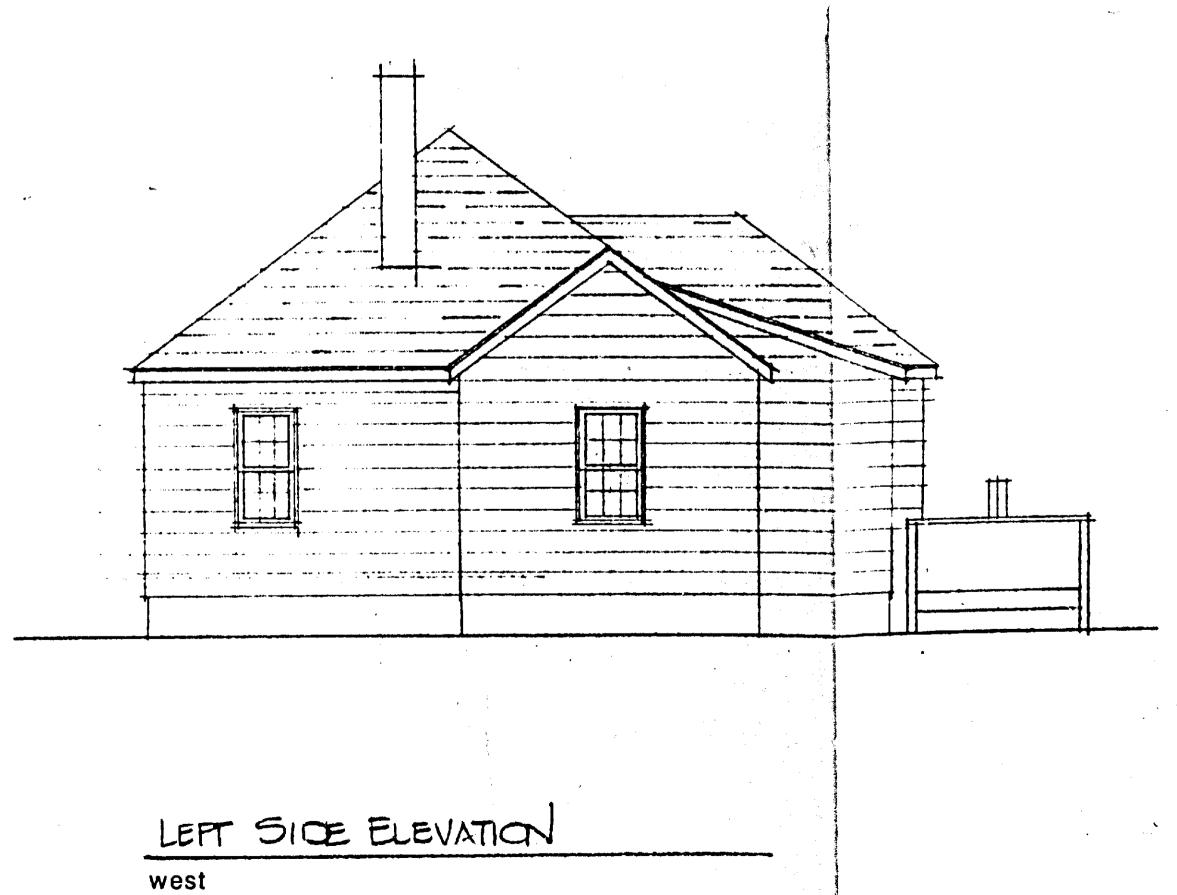
FRONT ELEVATION - REISTERSTOWN FORD SCALE 1/4"-1-0"

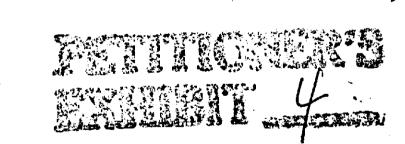


REAR ELEVATION

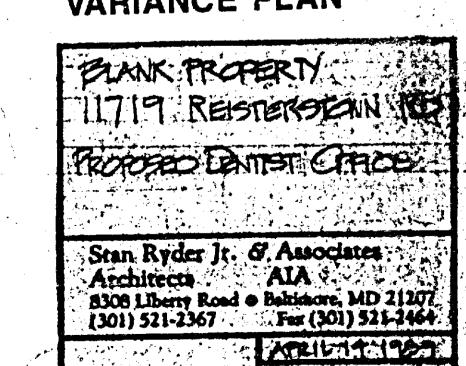


RIGHT SIDE ELEVATION Scale 4":1" o"





VARIANCE PLAN



Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

Given the particular facts of this case, and the evidence produced, it is the opinion of the Zoning Commissioner that the requested variance should be granted with appropriate restrictions. It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reason, jiven above, the Petitions for Special Hearing and Zoning Variance should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of October, 1989 that the Zoning Commissioner has the authority, pursuant to Section 307.1 of the B.C.Z.R., to approve the use of more than 25% of the total adjusted gross floor area of an cffice building located in an R-O zone to be occupied by medical offices, and as such, the Petition for Special Hearing is hereby GRANTED; and

IT IS FURTHER ORDERED that the Petition for Zoning Variance from Section 203.3.A.2 to permit 100% of the adjusted gross floor area of the office building to be occupied by dental offices in an R.O. zone in lieu of the permitted 25%, in accordance with Petitioner's Exhibit 2, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

> 1) The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) Petitioner shall be permitted only one dentist. including himself, and one non-professional assistant (receptionist, dental hygienist, file clerk, etc.) on the subject site for operation of the dental office. The subject dental office shall not be utilized as a multi-practitioner facility, nor shall the facility be permitted more than one full or part-time non-professional employee.

3) Petitioner shall provide and maintain a vegetative buffer in the area highlighted in hellow on Exhibit lA appended hereto, and shall submit a landscape plan relative to this area to the Baltimore County Landscape Planner for approval.

4) The D.R. 3.5 portion shall not be used for parking or any other commercial use. Petitioner shall maintain the existing vegetative buffer in this area and shall remove the existing shed on or before June 1,

5) The basement of the subject building shall not be utilized for office space, storage or any other commercial purpose.

6) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

7) When applying for a building permit, the site plan and lanscaping plan filed must reference this case and set forth and address the restrictions of this Order.

8) Hours of operation shall be limited to 7:00 AM to 5:00 PM, Monday through Saturday. There shall be no Sunday hours of operation.

9) There shall be no exterior lighting between the hours of 11:00 PM and 7:00 AM. All exterior lighting shall be directed downward and shall not diffuse onto the D.R. 3.5 portion of the subject site nor onto any adjoining properties.

> Zoning Commissioner for Baltimore County

ROSENFELT & WOOLFOLK INCORPORATED

civil engineers • site designers • land planners water quality and stormwater management consultants

Description to Accompany Request for Zoning Variance

Mark S. and Carol B. Blank Reisterstown Road (Maryland 140) Baltimore County, Maryland

Beginning for the same on the Northeast side of Reisterstown Road (66 feet wide) at the end of the third or South 33 degrees 37 minutes West 217.15 feet line of the land which by deed dated December 30, 1988, and recorded among the Land Records of Baltimore County, Maryland, in Liber SM 8080 page 84, was conveyed by Mary L. Laufer to Mark S. Blank and Carol B. Blank, said place of beginning being also 103.34 feet from the intersection of the centerline of Austin Road (40 feet wide) with said Northeast side of Reisterstown Road as laid out and shown on Plat of Slade Property, dated June 10, 1953, and recorded among said Land Records in Plat Book 19 folio 109, thence running with and binding on said Northeast side of Reisterstown Road, and also running with and binding on the fourth line of said deed, referring all bearings of this description to North as established in said deed,

1) North 35 degrees 34 minutes West 100.00 feet, thence leaving Reisterstown Road and running with and binding on the first, second, and third lines of said deed, the three following courses: viz

. 2) North 50 degrees 26 minutes East 203.20 feet, thence

3) South 35 degrees 34 minutes East 37.07 feet, and thence

4) South 33 degrees 37 minutes West 217.15 feet to the beginning.

Containing 13,892 square feet, or 0.319 acres, of land, more or less. Being all that same land which was conveyed by Mary L. Laufer to Mark S. Blank and Carol B. Blank by deed dated December 30, 1988 and recorded among the Land Records of Baltimore County in Liber SM 8080 page 84.

March 22, 1989



Suite Eight Owings Mills Professional Center 10706 Reisterstown Road Owings Mills, MD 21117 Telephone: (301) 356-4600

PETITION FOR SPECIAL HEARING PETITION FOR VARIANCE NE/S Reisterstown Rd., 103.34' * NW of C/L of Austin Rd. (11719 Reisterstown Rd.), 4th Election * Dist.; 3rd Councilmanic Dist.

JRH:bjs

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

MARK S. BLANK, et ux,

Petitioners

Case No. 89-55405PHA

PETITIONER'S MEMORANDUM

Factual Backround

* * * * * * * *

Mark S. Blank, D.D.S. and Carol B. Blank, his wife, are seeking a variance from Section 203.3.a.2 of the Baltimore County Zoning Regulations (BCZR) to permit 100%, in lieu of the permitted 25%, of the adjusted gross floc area of the Class A office building known as 11719 Reisterstown Road to be occupied by Doctor Blank's dental offices.

More specifically, they have petitioned for a Special Hearing under Section 500.7 of the BCZR to determine whether or not the Zoning Commissioner has the authority to consider petitions for a variance from the area regulation of Section 203.3.a.2 permitting no more than 25% of the adjusted gross floor area of a Class A office building to be occupied by medical offices. Upon an affirmative finding with respect to the Special Hearing, the Blanks have petitioned for a variance from that Section to permit 100% of the adjusted gross floor area of the small converted house to be occupied by Doctor Blank's dental office.

PETITION FOR SPECIAL HEARING

438

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

89.554-SPHA The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner management may.

grant a Variance from the area regulations of Section 203.3.A.2 permitting no more than 25% of the total adjusted gross floor

area of an office building located in an R-O zone to be occupied by medical offices. Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. ID Legal Owner(s): Contract Purchaser: 44 Mark S. Blank (Type or Print Name) (Type or Print Name) Signature Carol B. Blank (Type or Print Name) Wrol B. Blank City and State Attorney for Petitioner: 752-1002 Stuart D. Kaplow 4012 Longlake Dr. Phone No. (Type or Print Name) Owings Mills, MD Signature Suite 1700

ORDERED By The Zoning Commissioner of Baltimore County, this 26.00 _____, 1981, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 13th day of lly , 19 97, at 11:30 o'clock

Name, address and phone number of legal owner, con-

Stuart D. Kaplow, Esq.

tract purchaser or representative to be contacted

Name Suite 1700 300 E. Lombard St.

Baltimoro_-MD---21202--

Z.C.O.—No. 1 ESTIMATED LENGTH OF HEARING -1/2HR. AVAILABLE FOR HEARING MON./TUES./WED. - NEXT TWO MONTHS OTHER

REVIEWED BY: UCA DATE 4//2/89

300 E. Lombard St.

Baltimore, MD 21202

Attorney's Telephone No.: 625-3775

floor area of the building to be occupied by dental offices in lieu of the permitted 25%, of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) That strict compliance with the requirement would unreasonably

PETITON FOR ZONING VALANCE

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a

Variance from Section 203.3.A.2 to permit 100% of the adjusted gross

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

438

89.554.5PHA

prevent the use of the property for a permitted purpose and render conformance unnecessarily burdensome; that the grant would do substantial injustice to petitioner as well as other property cwners in district and a lesser relaxation than that applied for would not give substantial relief; and, that relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County. I/We do solemnly declare and affirm,

	under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.
Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	Mark S. Blank (Type or Print Name) Mod J. Blad
Signature	Signature
Address	Carol B. Blank (Type or Print Name) CAROL B. Blank CAROL B. Blank
City and State	Signature
Attorney for Petitioner: Stuart D. Kaplow	4012 Longlake Dr. 752-1002 Phone No.
(Type or Print Name) Signature	Address Prone No. Owings Mills, MD City and State
Suite 1700 -300-ELombard-St	Name, address and phone number of legal owner, con- tract purchaser or representative to be contacted
Baltimore, MD 21202 City and State	Name Suite 1700 Name Suite 1700 300 E. Lombard St. 625-3775
Attorney's Telephone No.: 625-3775	Phone No.
ORDERED By The Zoning Commissioner o	f Baltimore County, this day
of the Zoning Law of Baltimore County	he subject matter of this petition be advertised, as ty, in two newspapers of general circulation through and that the public hearing be had before the Zoning 106, County Office Building in Towson, Baltimore

ESTIMATED LENGTH OF HEARING -1/2HR. . 1HR. AVAILABLE FOR HEARING MON./TUES./WED. - NEXT TWO MONTHS Rev. Reg. REVIEWED BY: UCA DATE 4/12/89

/1._M.

Doctor Blank offered, by way of proffered testimony, that as a long time Baltimore County resident, he and his wife purchased the property, fronting on Reisterstown Road in Owings Mills, last year, unaware of the then impending change to the RO Regulations that would restrict the area utilized by his dental practice to 25% of the floor area. Doctor Blank enjoys the support of the Office of Planning and Zoning as well as the support of the adjoining property owners. In fact, Doctor Blank testified that he knows of no opposition to the relief

Robert Rosenfelt, a professional engineer and land planner of the firm of Rosenfelt and Woolfolk, offered as an expert witness, by way of proffered testimony, that based upon his analysis and findings, the relief requested in the Special Hearing Petition may be granted by the Zoning Commissioner as the variance requested is indeed an area variance within the intent of the BCZR.

requested in the Special Hearing or variance.

Stuart D. Kaplow, as the attorney for the Petitioners, argued that the proposed variance is an area variance in that it does not alter the intended use of the property, and upon a demonstration of practical difficulty or undue hardship the variance should be granted.

OUESTIONS PRESENTED

1. Does the Zoning Commissioner have the authority to consider petitions for variance from §203.3.a.2 of the BCZR which limits the adjusted gross floor area which can be occupied by medical offices in RO zones?

2. Will strict compliance with the BCZR result in practical difficulty or undue hardship upon the Petitioners such that a variance should be granted as authorized by Section 307?

THE REQUESTED VARIANCE TO THE "ADJUSTED GROSS FLOOR AREA" REQUIREMENT OF \$203.3.a.2 IS AN "AREA VARIANCE" AND THUS THE ZONING COMMISSIONER HAS THE AUTHORITY TO GRANT THE RELIEF REQUESTED IN THE PETITION FOR VARIANCE.

Under the BCZR, medical and dental offices are permitted in RO Zones. See, BCZR § 203.3. Because dental offices may exist as a permitted use on the property, and §203.3.a.2 controls only the percentage of the floor area of the building that may be occupied for a medical office, the variance requested is an area variance, not a use variance.

Overview of Area Variances

While the Maryland courts, as well as the County Board of Appeals, have addressed the issue of area variances, an overview of the topic is instructive. As one author has noted, the term "area variance" derived originally from the first New York zoning law, where - along with use districts and height districts - the area districts regulated yards, rear setbacks, coverage, and residential buildings. As used in New York case

- 2 -

- 3 -

law, the phrase included height and density regulations, which were not controlled, except incidentally, by the original area districts. Michie, American Land Planning Law § 135.03 n.15 (198_).

The language most often cited with respect to the distinction between area and use variances is that of the Nebraska Supreme Court in Alumni Control Bd. v. Lincoln, 137 N.W.2d 800 (Neb. 1965). The court described the difference between a use and an area variance, and noted the practical significance of the distinction. The court stated:

A use variance is one which permits a use other than that prescribed by the zoning ordinance in a part cular district. An area variance has no relationship to a change of use. It is primarily a grant to erect, alter, or use a structure for a permitted use in a manner other than that prescribed by the restrictions of the zoning ordinances.

Alumni Control Bd., 137 N.W.2d at 802, cited with approval in 3 Anderson, American Law of Zoning § 20.07 (3d ed. 1986); 82 Am. Jur. 2d Zoning & Planning § 256 (1976); 101A C.J.S. Zoning & Land Planning § 229 (1965).

A further distinction is noted in 6 Rohand, Zoning and Land Use Controls § 43.01(2) (1984):

A use variance allows a landowner to use existing property in a manner not permitted by the ordinance and inconsistent with uses in the surrounding area. An example of a use variance is a commercial establishment, such as a nursery or garage, in a residential zone.

An area variance (also known as a bulk, dimensional, construction or non-use variance) authorizes deviations from restrictions upon the construction and placement of buildings and other structures. Specifically, this device allows modification of area, yard, height, floor space, frontage, density, set back, and similar restrictions. An example of an area variance is where a building is constructed with floor area in excess of the limit prescribed in the ordinance.

Quoted in <u>City of Olathe v. Board of Zoning Appeals</u>, 696 P.2d 409 (Kan. App. 1985) (emphasis added).

Moreover, the courts have distinguished between a use variance and an area variance, by stating that a use variance is one which permits a use of land other than that which is prescribed by the zoning regulations. For example, a variance which permits an office or commercial use in a residential district, or which permits a multiple dwelling in a district zoned for single-family dwellings, or permits an industrial use in a district limited to commercial uses is a use variance.

3 Anderson, American Law of Zoning § 20.06 (3d ed. 1986).

On the other hand, an area variance is one which does not involve a use which is prohibited by the zoning regulations. Rather, area variances involve such matters as set back lines, height restrictions, lot-size, area restrictions, and the like. In other words, the term area variance is a shorthand description of a variance from structural or area restrictions. 82 Am. Jur. 2d Zoning and Planning § 256 (1976).

The Maryland Courts

variance in that the use variance changes the character of the zoned district while the area variance does not. Loyola Loan Ass'n v. Buschman, 227 Md. 243, 249 (1961). Doctor Blank's office, to be located on Reisterstown Road in an area stripped with commercial and office uses, will not change the character of the RO zoned district. The proposed variance is an area variance in that it does not change the character of the property, does not affect the use of the land, and does not threaten the neighborhood or adjacent landowners with an incompatible use of the property. The adjacent uses are office uses and, in fact, one of those is a dental laboratory - certainly comparible with the proposed dental office.

As the Maryland Court of Special Appeals stated, "it is generally agreed that the impact of an area variance is much less drastic than that of a use variance." Anderson v. Board of Appeals, 22 Md. App. 28, 39 (1974). The court in Anderson stated that Maryland recognizes a distinction between a use variance, which changes the character of the zoned district, and an area variance, which does not. Id. at 38. As noted above, the proposed variance does not affect the office use of the property nor does it result in a change in the office character of the converted dwelling or of the RO zoned district. The variance only allows a deviation in the percentage of the existing building that may be occupied as a dental office versus some other type of office.

The Circuit Court of Maryland for Baltimore County and County Board of Appeals have held both that variances can be granted under § 203.3 and rejected the idea that § 203.3 variances were necessarily use variances because of the subsection heading that reads, "203.3--Use Regulations."

Baltimore County

The Circuit Court for Baltimore County in the case of Balint v. County Board of Appeals of Baltimore County, Case No. 82-M-201 (December 5, 1984), held that a variance could be granted from § 203.3.C sign requirements for RO zones. The court upheld the Board of Appeals finding in a Special Hearing, on another subsection of the same Section at issue here, that it did have the power to grant a variance to these regulations.

The Peoples Counsel contended that §203.3--Use
Regulations of the BCZR precluded the Board from entertaining
requests for variance for signs not specifically allowed in
Section 203.3.C. The Board rejected the position of the
Peoples Counsel "because to so hold would mean that such
requests would by their very nature be use variances as opposed
to area variances. The Board is of the opinion that requests
for variances concerning the size of signs could be classified
as area variances".

In Re Petition for Variance, Howard Grossfield, et al., Board of Appeals of Baltimore County, Case No. 83-10-ASPH, and 82-189-V, (April 26, 1984), page 1, in rejecting the Peoples Counsel argument, the Board clearly held that variances

- 7 -

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petitioned under § 203.3--*Use Regulations*, can be considered area variances. The Circuit Court agreed and stated that this decision is consistent with BCZR §307 which allows variances from regulations in all zones when strict compliance with the Regulations would result in practical difficulties or unreasonable hardship. Id. at 3.

under Section 203.3. The variance requested, as was the request in the Balint case, is not a request to vary the use of the property, but to vary the size and amount of a permitted use. The variance request in the Balint case was subsequently denied by the Circuit Court on the grounds that the petitioner did not meet the practical difficulty or unreasonable hardship standard. Balint, 82-M-201 at 3-4. Here the Petitioner has clearly demonstrated practical difficulties and undue hardship.

A subsequent case before the Board of Appeals again specifically addressed the question of whether or not a variance may be petitioned for under §203.3--Use Regulations for property zoned RO. In the Matter of Emanuel S. Glasser.

M.D., No. 85-282-XA, (October 9, 1985) the Board of Appeals faced an appeal from the Peoples Counsel, once again challenging the right to petition for a variance to RO sign regulations, under §203.3. The Board in its opinion and order made clear that the authority of the Zoning Commissioner to grant variances under §307 of the BCZR extends to RO zoning classifications. In keeping with the Balint case, the language

of the Board in <u>Glasser</u> is quite emphatic in rejecting a narrow interpretation of the authority to consider variances to RO regulations under §307. In applying §307 variances to §203.3 on the issue of whether or not a variance could be applied for in property zoned RO, the Board stated:

"The Board will also note that in \$1801.1.8.1.b.7 the County Council, by Bill #124, 1981 legislated that \$307 was not applicable to the requirements of this subsection. No such legislation has been afforded the R-O zoning classification. \$307 empowers the Zoning Commissioner and the County Boa.d of Appeals to hear petitions requesting variances from height and area regulations, off-street parking regulations and from sign regulations. Only the restrictions in residential transition areas, as addressed in Bill #124, 1981, are specifically denied the right to petition for a variance under \$307.

the right to petition for a variance in the R-O zone should not be denied and will so order. . . ORDERED that the right to petition for variances as defined in §307 of the BCZR be afforded the R-O zoning classification.* Glasser, 85-282-XA at 2-3.

The cases above provide clear precedent that petitions for variances to the regulations under §203.3--Use Regulations need not be construed as use variances, but can be granted as variances from height, area, offstreet parking and sign regulations as provided for under §307 of the BCZR. It plainly follows that a variance to an area regulation, as is the new subsection restricting medical offices to 25% of the Adjusted Gross Floor Area, can be granted. Under the broad language in Glasser, the latest decision on this subject, the Board did

not limit its finding to sign regulations but to regulations covering the RO zoning classification. Again, the order stated, "ORDERED that the right to petition for variances as defined in §307 of the BCZR be afforded the R-O zoning classification". Glasser 85-282-XA at 3.

The Planning Board report of October 16, 1986

concerning the legislation that evolved into Bill No. 37-88,
that enacted the regulation in question, is silent as to the
issue of the granting of variances and, in fact, the report
does not even make mention of the floor area limitation.
However, the Planning Board unanimously voted to recommend to
the Director of the Office of Planning and Zoning, a Waiver of
C.R.G. supporting Doctor Blank's plan to permit 100% of the
floor area to be occupied by dental offices.

Commissioner confirmed, in a conversation with Counsel, that prior to enactment he informed Barbara Bachur, the sponsor of the legislation establishing the regulation in question, that the floor area limitation, as an area regulation, could be varianced. This opinion is again made clear in the June 10, 1988 Memorandum from the County Attorney the Councilman William R. Evans, (Petitioner's Exhibit #1) which states in relevant part:

It is my opinion that a request for variance to the 25% limitation could be made and that

it would be treated as an area variance and not as a use variance. 1

A plain reading of the regulation concerning "adjusted gross floor area" must determine it to be an "area regulation" for the purpose of §307 and it is indeed within the authority of the Zoning Commissioner to consider variances to §203.3.a.2 of the Baltimore County Zoning Regulations.

STRICT COMPLIANCE WITH THE BCZR WOULD RESULT IN PRACTICAL DIFFICULTY SUCH THAT A VARIANCE MUST BE GRANTED AS AUTHORIZED BY §307.

The Zoning Commissioner has the power to grant the requested variance. Such power is consistent with the Baltimore County Zoning Regulations Section 307 which allows variances from area regulations in all zones when strict compliance with the BCZR would result in practical difficulties or unreasonable hardship. The testimony made clear that practical difficulties exist. In McLean v. Soley, 270 Md. 202, 214, 310 A.2d 783 (1973) the Court of Appeals defined the standard of "practical difficulty" under Section 307:

1. Whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

¹The Memorandum of June 10, 1988 can not be looked to for legislative history, as a factual investigation by Counsel subsequent to the hearing of July 13, 1989, makes clear that Bill No. 37-88 was passed for third reader on April 18, 1988. The memorandum was apparently written to clarify the issue for a constituent of Councilman Evans during the 1988 Comprehensive Rezoning Process.

2. Whether a grant of the Variance applied for would do substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

3. Whether relief can be granted in such fashion that the spirit of the Ordinance will be observed and public safety and welfare secured.

The first criteria, concerning the use of the property, is whether compliance with the Regulation would prevent the owner from using the property for a permitted use or would render conformity with such restrictions unnecessarily burdensome. Doctor Blank purchased the property with plans to locate his dental office in the building that, as fronting on a commercial section of Reisterstown Road, is no longer suitable for residential use. The Petitioner testified that a dental office, a permitted use, could not practically function in 25% of the gross floor area of the building. In describing the floor plan of the building, as depicted on page 2 of the variance Plan, (Petitioner's Exhibit 3), the existing Class A office building has exterior dimensions of only 29 feet by 32 feet. With the need for a dark room, laboratory area, not to mention patient reception area and office space to accompany the patient operating rooms, this modest dental office is already pressed for space. Mr. Rosenfelt further testified that it was for all practical purposes not possible to locate a dental office in less than 100% of the first floor area of of the building.

In addition to being unreasonably prevented from using his property as a dental office, conformity with the restriction in question is unnecessarily burdensome. The issues of compatibility and vehicular congestion and parking that gave rise to the several recent changes to the RO regulations and the enactment of the Section in question are all but non-issues with respect to the subject site. Vehicular congestion is a non-issue because the average daily trips expected to be generated from the site will have a minimal, if noticeable at all, affect on traffic on Reisterstown Road.

As the first page of the Variance Plan (Petitioners Exhibit 2) depicts, the parking is sensitively placed such that it is all located within the RO zoned portion of the property and does not intrude on the residentially zoned portion of the site. An additional parking space, beyond what is required, has been provided. While the adjoining uses along Reisterstown Road are office and commercial, the residential property that abuts the site, to the rear, is carefully screened and the proposed use of railroad ties, within the landscape plan, will maintain the 'aesthetic ambiance'of the residentially zoned property and will further not only screen vehicular activity, but also serve to block light emitted from automobile headlights. The nature of the re-use of the converted house without exterior modifications, as located along Reisterstown

Road and sensitivity to the vehicular issues in laying out the parking and ladscaping, address both the Council's concerns with respect to compatibility and vehicular issues. Strict compliance with Section 203.3.a.2 is unnecessarily burdensome on Doctor Blank and his wife.

The second prong of the practical difficulty test has two parts. The first part is whether the variance would do substantial justice to the applicant as well as to other property owners in the district. The subject property is zoned RO in recognition of its location between a residential and non-residential ara. Due to the transitional nature of RO zones, the restriction is designed to be in keeping with the residential elements of the surrounding areas. To that end Doctor Blank determined to convert the then existing dwelling to a Class A office building. It is reasonable in such a zone, abutted by residential uses, to impose some moderation on office use, including restrictions on the type of office. However, in the case at bar, the deviation from the 25% medical limitation is consistent with the character of the other property owners in the RO district. In fact, both the adjoining properties to the north and south of the subject site, are converted Class A office buildings.

The second part of the second prong of the practical difficulties test is whether a lesser relaxation would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners. As testimony indicated and is clear from a review of the floor

- 14 -

plan of the building, a lesser relaxation is not a workable solution. The proposed dental offices are all but already cramped in Doctor Blank's building. It would not be possible for the dentist to occupy only 25% of the floor area. The need sufficient to justify this variance is substantial and urgent.

The third criteria is whether relief can be granted in such fashion that spirit of the Ordinance will be observed and public safety and welfare secured. The spirit of the Ordinance is to promote land use by allowing certain houses to converted to office buildings. As noted above, while a restriction on floor area for certain office types may be a reasonable means of maintaining compatibility with nearby residential areas in certain situations, such is not the case with the Blank site. Doctor Blank's property fronts along a major arterial and is abutted on two sides by office uses. By limiting parking to the RO zones portion of the property and through landscape treatment, Doctor Blank's Class A office building will be in keeping with the residential elements of the surrounding area. Public safety and welfare are both secured on the granting of the variance requested.

CONCLUSION

The Zoning Commissioner has the authority to grant the requested variance. Upon a review of a testimony, the Zoning Commissioner can only find that strict compliance with the Regulations would result in practical difficulty or undue

- 15 -

- 12 -

hardship as required by Section 307. THE VARIANCE MUST BE **GRANTED!**

Respectfully Submitted,

Stuart D. Kaplòw Frank, Bernstein, Conaway & Goldman 300 East Lombard Street Baltimore, Maryland 21202 (301) 625-3775

Certificate of Service

I HEREBY CERTIFY that on this 24 day of July, 1989, a copy of the aforegoing Memorandum was mailed, first class mail, to Phyllis C. Friedman, People's Counsel, Room 304, County Office Building, Towson, Maryland 21204.

Room 301, County Office Bldg.

HEARING ROOM -

County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 (301) (301) (301) (301) (301) February 7, 1990 NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE "ITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHLI FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 89-554-SPHA MARK S. BLANK, ET U., NE/s Reisterstown Rd., 103.34' NW of c/l of Austin Road (11719 Reisterstown Rd.) 4th Election District

3rd Councilmanic District SPH -to find that Z.C. has authority to approve use of more than 25% total adjusted gross floor/office building in RO zone for medical offices; VAR -100% of adjusted gross floor area for dental offices in lieu of the allowed 25%.

10/25/89 - Z.C.'s Order GRANTING Petitions with restrictions.

TUESDAY, JUNE 12, 1990 at 10:00 a.m. Petitioners/Appellants cc: Mr. and Mrs. Mark S. Blank

Counsel for Petitioners/Appellants Stuart D. Kaplow, Esquire

Robert Rosenfelt People's Counsel for Baltimore County P. David Fields

Pat Keller J. Robert Haines Ann M. Nastarowicz James E. Dyer W. Carl Richards, Jr.

Arnold Jablon, County Attorney

Docket Clerk - Zoning

LindaLee M. Kuszmaul Legal Secretary

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines Zoning Commissioner

November 27, 1989



County Office Building, Room 315 Towson, Maryland 21204 RE: Petition for Zoning Variance

Baltimore County Board of Appeals

NE/S Reisterstown Road, 103.34' NW of the c/l of Austin Road (11719 Reisterstown Road) 4th Election District, 3rd Councilmanic District MARK S. BLANK, ET UX - Petitioners Case No. 89-554-SPHA

Please be advised that an appeal of the variance portion only was filed in this office on November 21, 1989 by Stuart D. Kaplow, Attorney on behalf of the Petitioners. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

> J. ROBERT HAINES Zoning Commissioner

JRH:scj

Enclosures

cc: Mark S. & Carol B. Blank

4012 Longlake Drive, Owings Mills, MD 21117 Stuart D. Kaplow, Frank Bernstein, Conaway & Goldman

300 East Lombard Street, Baltimore, MD 21202 Robert Rosenfelt, Suite 8 Owings Mills Professional Center 10706 Reisterstown Road, Owings Mills, MD 21117

People's Counsel, Rm. 304, County Office Bldg., Towson, MD 21204

FRANK, BERNSTEIN, CONAWAY & GOLDMAN 300 EAST LOMBARD STREET

10227 WINCOPIN CIRCLE BALTIMORE, MARYLAND 21202 COLUMBIA, MARYLAND 21044 7799 LEESBURG PIKE TYSONS CORNER, VIRGINIA 22043

(301) 625-3500 (703) 556-9676 TELECOPIER: (301) 625-3702 CABLE: FRASKOP TELEX: 87939

BETHESDA, MARYLAND 20817 (301) 897-8282 WRITER'S DIRECT NUMBER (301) 625-3775

IIS WEST CHURCH STREET

FRECERICK, MARYLAND 21701

(30) 663-5335

6701 DEMOCRACY BOULEVARD

November 20, 1989

J. Robert Haines, Zoning Commissioner Office of Planning and Zoning 111 W. Chesapeake Avenue Towson, MD 21204

> Re: PETITION FOR ZONING VARIANCE NE/S Reisterstown Road, 103.34'NW of the c/1 of Austin Road (11719 Reisterstown Road) 4th Election District - 3rd Councilmanic District Mark S. Blank, et ux - Petitioners Case No. 89-554-SPHA

Dear Commissioner Haines:

(30) 730-9477

(703) 593-4570

Please note an appeal on behalf of the Petitioners of the decision on the Petition for Zoning Variance only, in the above-captioned matter as determined in the decision dated October 25, 1989. (This Appeal is not of the decision with respect to the Special Hearing.)

Find enclosed our check payable to Baltimore County in the amount of One Hundred and Fifty Dollars (\$150.00) as payment of the appeal fee and assignment fee. Please forward the file and all requisite papers to the Board of Appeals.

Thanking you in advance for your courtesies, should there be any difficulty with this request or should I need be of any assistance to you, do not hesitate to call.

SDK:cc

cc: \people's Counsel 61:6 NY 12 NON 63

- 16 -

CERTIFICATE OF POSTENG ZONING DEPARTMENT OF BALTIMORE COUNTY 89-554-5144 Posted for: Affilal

Posted for: Mark A Blank et my

Location of property NE sich of Reichtstein Road 103.34 ft

NW of Austin Pond (11719 Peisterstein Road)

Location of Signer Unifort of 11719 Reichtstein Road ZONED: DR 3.5 4 AUSTIN ROAD MARENT USE: RESIDENTIAL EXHIBIT 1A PROP TIES --ZONE D.R. 3.5 ZONE MO --- EX. SHED TO BE PEMOVED

Marketin--

-EX. TREE

BEMOVED

- BITHMINOUS CONCRETE (SEE DETAIL THIS SHEET)

REQUIRED

TO BE

REQUIRED FRONTAGE (APPROXIMATE LO O MIM 633.46 REISTERTOWN RC ULTIMATE PIW TO 4

> CALTIMORE COUNTY, MACKLAND INTER-OFFICE CORRESPONDENCE

RECO CA COCA. Consciens Villian B. Evens 21 JET ES 2: 12
FROM ASECIÉ ISPICE

OFFICE (CLASS A)

SURIDCY Medical Officas to 8-9 Zone

It is my opinion that a request for a variance to the 25% limitation could be made and that it would be treated as an t eres variance and not as a use variance. This conclusion is founded on various appellate decisions rendered by the Matyland Courts as well as by the Beltimore County Board of Appeals.

Further substantiation by the Zoning Commissioner would . be recommended.

BAZTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Zoning Advisory Committee c/o Carl Richards May 11, 1989 FROM Robert W. Bowling, P.E.

SUBJECT (tem #438 (Blank Property)

PROPERTY OWNER: Mark S. Blank, et ux

NE/S Reisterstown Rd., 103.34' NW of centerline of Austin Rd.

4th Election District

The Zoning Plan for the subject item has been reviewed by the Developers Engineering Division and we comment as follows:

GENERAL COMMENTS:

All improvements, intersections, entrances, drainage requirements and construction affecting a State Road right-of-way are subject to the Standards, specifications and approval of the Maryland State Highway Administration in addition to those of Baltimore County.

In accordance with Bill No. 56-82, dredging, filling or construction in any wetland is prohibited.

The Developer shall be responsible for damages to the County's facilities, such as water meters, manholes, curbs and gutters and inlets within his subdivision. Occupancy Permits will be withheld until such damages have been corrected.

The Developer's Engineer shall investigate the need and obtain the necessary permits for the facilities serving this site that may require a "Corps of Engineer's Permit", a "Water Resources Permit", a "Water Quality Certification", and any other Federal or State Permits. These facilities cannot be sent to contract until such permits have been received.

STORM DRAINS AND SEDIMENT CONTROL COMMENTS:

The Developer is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall. The Developer's cost re-possibilities include the acquiring of easements and rights-of-way - both onsite and offsite - and the deeding in fee of said rights-of-way to the County. Preparation of all construction, rights-of-way and easement drawings, engineering and surveys, and payment of all actual construction costs including the County overhead both within and outside the development, are also the responsibilities of the Developer.

MAY 1 9 1218

Blank Property Fage 2 May 11, 1989

STORM DRAINS AND SEDIMENT CONTROL COMMENTS: (Con't)

Onsite drainage facilities serving only areas within the site are considered private. Therefore, construction and maintenance shall be the Developer's responsibility. However, a drainage area map, scale 1" = 200', including all facilities and drainage areas involved, shall be shown on a plan and submitted to Baltimore County for review.

The Developer must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction propercies, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Developer.

Development of this property through stripping, grading and peveropment of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

WATER AND SANITARY SEWER COMMENTS:

Permission to obtain a metered connection from the existing main may be obtained from the Department of Permits and Licenses.

The Developer is responsible for the cost of capping or plugging any existing house connection not used to serve the proposed site.

The Developer will be given credit for one System Connection Charge for each existing house which is now connected into the public services.

Permission to connect to, or (to connect additional sanitary fixtures to) the existing public sanitary sewer may be obtained from the Department of Permits and Licenses.

The total Water and/or Sanitary Sewer System Connection Charge is determined, and payable, upon application for the Plumbing Permit. This determined, and payable, upon application for the riumbing rermit. This Charge is in addition to the normal front foot assessment and permit charges.

This property is subject to Water and/or Sewer System Connection This propercy is subject to mater and/or sewer system connection Charges based on the size of water meters utilized in accordance with current County Policy.

SIGNED: ROBERT W BOWLING

Robert W. Bowling, P.E., Chief Developers Engineering Division

RWB:pab

cc: File

BLANK/TXTCOMM2

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: July 17. 1989

Zoning Commissioner

FROM: Pat Keller, Deputy Director Office of Planning and Zoning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

Case No. 89-554-SPHA Item No. 438

Re: Mark S. Blank. et ux

The Petitioners request a variance to allow 100% of the adjusted gross floor area to be occupied by dental (medical) offices in lieu of the permitted 25% and a special hearing to determine if such a variance may be granted. In reference to this request, staff offers the following

A waiver from CRG meeting and CRG Plan was granted by the Planning Board on April 14, 1989 (W-89-85).

This office is generally opposed to allowing more than the permitted 25% medical office use in R.O zoned building, however, it realizes the limitation created by not allowing conversion of individual dwellings for use by medical practitioners.

In order that they may be compatible with surrounding residential properties, the medical office should be restricted in the number of professional and non-professional employees.

Staff recommends that

1. the number of dentists having office hours be limited to 1 professional dentist with requisite support staffing and

2. no office visit should exceed 2 hours in length; and 3. the D.R.3.5 portion of the property should be landscaped and

maintained as a residential lot; and 4. this parcel is located within a planned commercial corridor

'study area, at the time of building permit approval a streetscape program should be reviewed by the Office of Planning

A:71389.txt Pg.2



ZONING OFFICE

Frank, Bernstein, Conaway & Goldman

10227 WINCOPIN CIRCLE COLUMBIA, MARYLAND 21044 (301) 730-9477 7799 LEESBURG PIKE

TYSONS CORNER, VIRGINIA 22043

300 EAST LOMBARD STREET BALTIMORE, MARYLAND 21202 (301) 625-3500 (703) 556-9676 TELECOPIER: (301) 625-3702

CABLE! FRASKOP TELEX: 8/939

WRITER'S DIRECT NUMBER

118 WEST CHURCH STREET

FREDERICK, MARYLAND 21701

(30) 663-5335

6701 DEMOCRACY BOULEVARD

BETHESDA, MARYLAND 20817

(301) 897-8282

November 20, 1989

J. Robert Haines, Zoning Commissioner Office of Planning and Zoning 111 W. Chesapeake Avenue Towson, MD 21204

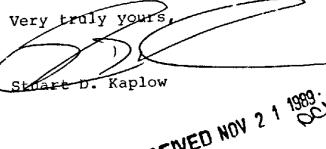
Re: PETITION FOR ZONING VARIANCE NE/S Reisterstown Road, 103.34'NW of the c/1 of Austin Road (11719 Reisterstown Road) 4th Election District - 3rd Councilmanic District Mark S. Blank, et ux - Petitioners Case No. 89-554-SPHA

Dear Commissioner Haines:

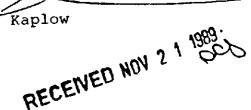
Please note an appeal on behalf of the Petitioners of the decision on the Petition for Zoning Variance only, in the above-captioned matter as determined in the decision dated October 25, 1989. (This Appeal is not of the decision with respect to the Special Hearing.)

Find enclosed our check payable to Baltimore County in the amount of One Hundred and Fifty Dollars (\$150.00) as payment of the appeal fee and assignment fee. Please forward the file and all requisite papers to the Board of Appeals.

Thanking you in advance for your courtesies, should there be any difficulty with this request or should I need be of any assistance to you, do not hesitate to call.



cc: People's Counsel Board of Appeals

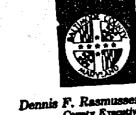


Baltimore County
Zoning Commission
County Office Building
111 West Chesapeuke Avent

Zoning Commissioner 111 West Chesapeake Avenue

117722年19 official files 150 -OF ALL OTHER ORDERS 150 -POSTING SIGNS : AGVENCISING I X' 161AL: \$150.00 LAST MATE OF COMERCE DEADER

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Stuart D. Kaplow, Esquire Frank, Bernstein, Conaway & Goldman 300 E. Lombard Street Baltimore, Maryland 21202

RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE NE/S Reisterstown Road, 103.34' NW of the c/l of Austin Road (11719 Reisterstown Road) 4th Election District - 3rd Councilmanic District Mark S. Blank, et ux - Petitioners Case No. 89-554-SPHA

Dear Mr. Kaplow:

In response to your letter dated November 13, 1989 concerning the above-captioned matter, the following comments are offered.

Regardless of whether or not the Office of Planning is acceptable to certain restrictions with respect to staffing and hours of operation of the proposed medical office on the subject site, the opinion issued October 25, 1989 remains appropriate in my opinion and will not be modified. In the event you are unhappy with this decision, you are free to file an appeal on behalf of your client.

T. ROBERT HAINES // Zoning Commissioner for Baltimore County

JRH:bjs

FRANK, BERNSTEIN, CONAWAY & GOLDMAN

(301) 625-3500

(703) 556-9676

TELECOPIER: (301) 625-3702

CABLE: FRASKOP

TELEX: 87939

10227 WINCOPIN CIRCLE COLUNBIA, MARYLAND 21044 (30) 733-9477 7799 LEESBURG PIKE

(703) 893-4670

TYSONS CORNER, VIRGINIA 22043

300 EAST LOMBARD STREET IIS WEST CHURCH STREET BALTIMORE, MARYLAND 21202 FREDERICK, MARYLAND 21701 (301) 663-5335

6701 DEMOCRACY BOULEVARD BETHESDA, MARYLAND 20817 (301) 897-8282

WRITER'S DIRECT NUMBER (301) 625- 3775

November 13, 1989

J. Robert Haines, Zoning Commissioner Office of Planning & Zoning 111 W. Chesapeake Avenue Towson, MD 21204

> Re: Marl S. Blank, et ux Case No. 89-554-SPHA

Dear Commissioner Haines:

By this letter, I would kindly request that you please reconsider the decision of October 25, 1989 in the abovecaptioned matter. Specifically, I would ask on behalf of my clients, Dr. and Mrs. Mark S. Blank, that you modify the restrictions which are conditions precedent to the relief

We would request:

1. That enumerated condition 2 be modified such that one (1) dentist, a chair side assistant, a hygienist and secretary be permitted to operate on the site. The nature of modern dentistry is such that most dentists are assisted chair side and a hygienist performs routine cleaning operations. A secretary is required in the waiting area as with any professional office.

2. That the hours of operation be altered such that office hours in the early evening be permitted. Dr. Blank's existing office in Laurel regularly schedules each last appointment at 8:30 p.m. and with so many of his clients requesting evenir, hours, such is a practical necessity.

3. That enumerated paragraph 9 be altered to correspond with the hours of operation noted

FRANK, BERNSTEIN, CONAWAY & GOLDMAN

J. Robert Haines, Zoning Commissioner November 13, 1989

I would kindly request an opportunity to speak with you about these requested alterations and modifications to your decision.

Unfortunately, while I might feel that we have prevailed and won the battle in obtaining a favorable decision, I have lost the war for my client. Dr. Blank indicates to me that due to the restrictions in staffing and hours of operation, it is not practicable for him to operate out of the site in accordance with your decision. As you may be aware, discussions were held with the Office of Planning and Zoning and Dr. Blank had agreed to certain restrictions with respect to staffing. Possible the understanding reached with OPZ could be the basis for any authorization of the restrictions.

Thanking you in advance for all of your courtesies in this matter, I will telephone your office during the coming days.

Cat Litter Box

Petland

Perch Sets

SDK:cc

cc: People's Counsel

TELECOPIER: (301) 625-3702 (301) 897-8282 CABLE: FRASKOP

TELEK: 87939

LAW OFFICES

FRANK, BERNSTEIN, CONAWAY & GOLDMAN

300 EAST LOMBARD STREET

BALTIMORE, MARYLAND 21202

(301) 625-3500

(703) \$56-9676

HB WEST CHURCH STREET FREDERICK, MARYLAND 21701 (301) 653-5335 6701 DEMOCRACY BOULEVARD BETHESDA, MARYLAND 20817

WRITER'S DIRECT NUMBER

Dennis F. Rasmussen

July 24, 1989

HAND-DELIVERY

10227 WINCOPIN CIRCLE

COLUMBIA, MARYLAND 21044

(301) 730-9477

7799 LEESBURG PIKE

TYSONS CORNER, VIRGINIA 22043

(703) 893-4670

J. Robert Haines, Zoning Commissioner County Office Building, First Floor 111 W. Chesapeake Avenue Towson, MD 21204

> RE: Mark S. Blank, et ux. 89-554-SPHA



ZONING OFFICE

Dear Commissioner Haines:

Please find enclosed the Petitioner's Memorandum as requested by you when this matter was heard on July 13, 1989.

As noted on the Certificate of Service, a copy of the Memorandum has been provided to Phyllis C. Friedman, People's Counsel. Ms. Friedman indicated that she was not certain, at the time of the hearing, whether or not she would file a responsive memorandum, however, in the interest of timeliness, I would kindly request that, should she so desire, she be directed to file her reqponse within ten (10) days. As you will recall, the Petitioner's Memorandum was prepared within that time frame and as my client is a small business man, any delay in a determination of this matter, causes him hardship.

Thanking you for all of your courtesies, should I need be of any assistance to you, of course, do not hesitate to give me a call.

Rultimore County Zoning Commissioner Office of Planning & Zening Towson, Maryland 21204 (301) 887-3353

J. Robert Haines
Zoning Communicate

October 25, 1989

Stuart D. Kaplow, Esquire 300 E. Lombard Street, Suite 1700 Baltimore, Maryland 21202

RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE Dennis F. Rasmussen NE/S Reisterstown Road, 103.34' NW of the c/l of Austin Road (11719 Reisterstown Road) 4th Election District - 3rd Councilmanic District Mark S. Blank, et ux - Petitioners Case No. 89-554-SPHA

Dear Mr. Kaplow:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Zoning Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

> Very truly yours, J. Robert Haines J. ROBERT HAINES Zoning Commissioner for Baltimore County

cc: People's Counsel

JRH:bjs

File

The Zoning Commissioner of Palkretre County, by sufficient of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the properly identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 on follows: Petition for Special Hearing and Zoning Variance Case number: 89-554-SPHA NE/S Reisterstown Road, 103.34 ft. NW of ch of Petitioner(s): Mark S. Blank, et ux Hearing Date: Thursday, July 13, 1989 at 11:30 a.m. Special Hearing: May grant a Variance of Section 203.3.A.2 per-lations of Section 203.3.A.2 per-mitting no more than 25% of the total adjusted gross floor area of an office building located in an R-O zone to be occupied by medical office.

Verlance: to permit 100% of the adjusted gross floor area of the building to be occupied by dental offices in lieu of the permitted 25%.

In the event that this Petition is granted, a building permit may b issued within the thirty (30) de appeal period. The Zoning Com-missioner will, however, entertain any request for a stay of the isperiod for good cause shown.

Such request must be in writing and received in this office by the date of the hearing set above or

J. ROBERT HAINE

NOTICE OF HEARING

The Zoring Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryfand 21204 as follows:

Petition for Special Hearing and Zoning Variance Case Number: 89-554-SPHA NE/S Septembershown Road, 103.34 世界以 of c1 of Australia

Austin #64.

11719 Reisterstown Road
4th Election District
3rd Councilmanic
Petitioner(s):
Mark S. Blank, et ux

Special Hearing: May grant a Variance from the area regu-lations of Section 203.3.A.2 per-

mitting no more than 25% of the total adjusted gross floor area of an office building located in an R-O zone to be occupied by medical office.

Variance: to permit 100% of the adjusted gross floor area of the building to be occupied by dental offices in lieu of the permitted 25%.

in the event that this Palaton in granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of axid permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the healing set above or presented at the healing.

CERTIFICATE OF PUBLICATION

TOWSON, MD., June 23 , 1989 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of ___ successive weeks, the first publication appearing on June 22, 1989.

THE JEFFERSONIAN,

5. Zete Orlan

PO13596 reg H30963 co 89-554-5PHA price \$ 47.28

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was

published in THE JEFFERSONIAN, a weekly newspaper published

in Towson, Baltimore County, Md., once in each of ___ successive

weeks, the first publication appearing on June 22, 1989.

PO13596

reg H30963

price \$ 47.28

CO 89-554-5PHA

TOWSON, MD., June 23 . 1989

THE JEFFERSONIAN.

5. Zehe Orlina

breast augmentations they | Line: 1-800-221-9808 or write: Academy President Dr. perican Academy of Cos-etic Surgery, 159 East Richard Calcel attributed the Live Oak Ave. #204, Arincrease to the public's height-ened awareness of the benefits cadia, CA. 91006. of cosmetic surgery. In addition, he said, "I believe it is also a matter of people wanting to improve their appearance. Dancers, Actors and Musicians needed to fill paying positions for Lec-Most people are now educated ure Demonstrations, Workshops and enough to know that there are feaching in after school programs for options available which are safe and effective". Academy member Dr. Thomas Alt noted that the advent of cosmetic surgery financing may also be a contributing factor in the escalation of numbers. "Many leading institutions and some cosmetic surgeons now offer financing for cosmetic surgery, making it more affordable for the average patient", Dr. Alt One Academy source cited the fashion industry's promoprimary reason behind last year's 11.5% increase in breast The number one procedure

tion of the "fuiler figure" as the augmentations, elevating it to the second most popularly performed procedure. in 1988 was rhinoplasty, or in 1988 was rhinoplasty, or "nose job". There were an estimated 348,000 of these procedurus performed, a 5% climb from 1987's figure of 325,000. Still in demand, but with

slightly decreased frequency

daltimore City School programs. Cultural Arts Institute Inc., 435-ARTS. uditions by appointment only. LEGAL NOTICE Franchise Opportunities Ay: Or write to: Petland Inc.

THE NORTHWEST STAR

89-554-5841

Cost of Advertisement___

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

Date of Posting June 21 1989 Special Hearing and Variance. mark S. Blank et up reation of property: NE/S Reistrotown Good 103:34 St. NW of C/L.

l austin Good, 11719 Reistrotown Road Location of Signs: In front of 11719 Reisterstown Road

Date of return: June 23, 1989 Number of Signs: 2

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353

Enclosure

cc: Ms. Phyllis C. Friedman

J. Robert Haines

Mr. Mark S. Blank 4012 Longlake Drive

Owings Mills, Maryland 21117 Re: Petitions for Special Hearing and Zoning Variance CASE NUMBER: 89-554-SPHA NE/S Reisterstown Road, 103.34 ft. NW of c/l of Austin Road 11719 Reisterstown Road

4th Election District - 3rd Councilmanic Petitioner(s): Mark S. Blank, et ux HEARING SCHEDULED: THURSDAY, JULY 13, 1989 at 11:30 a.m.

___ is due for advertising and posting of the above referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the time it is posted by this office unit1 the day of the hearing.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign and post set(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

Please note that should you fail to return the sign & post set(s), there will be an additional \$25.00 added to the above fee for each such set not returned.

rc: Stuart D. Kaplow, Esq.

: BEFORE THE ZONING COMMISSIONER RE: PETITION FOR SPECIAL HEARING PETITION FOR VARIANCE PETITION FOR VARIANCE
NE/S Reisterstown Rd., 103.34 :
NW of C/L of Austin Rd. (11719
Reisterstown Rd.), 4th Election :
Dist.; 3rd Councilmanic Dist. MARK S. BLANK, et ux,

Petitioners

Case No. 89-554-SPHA

ENTRY OF APPEARANCE

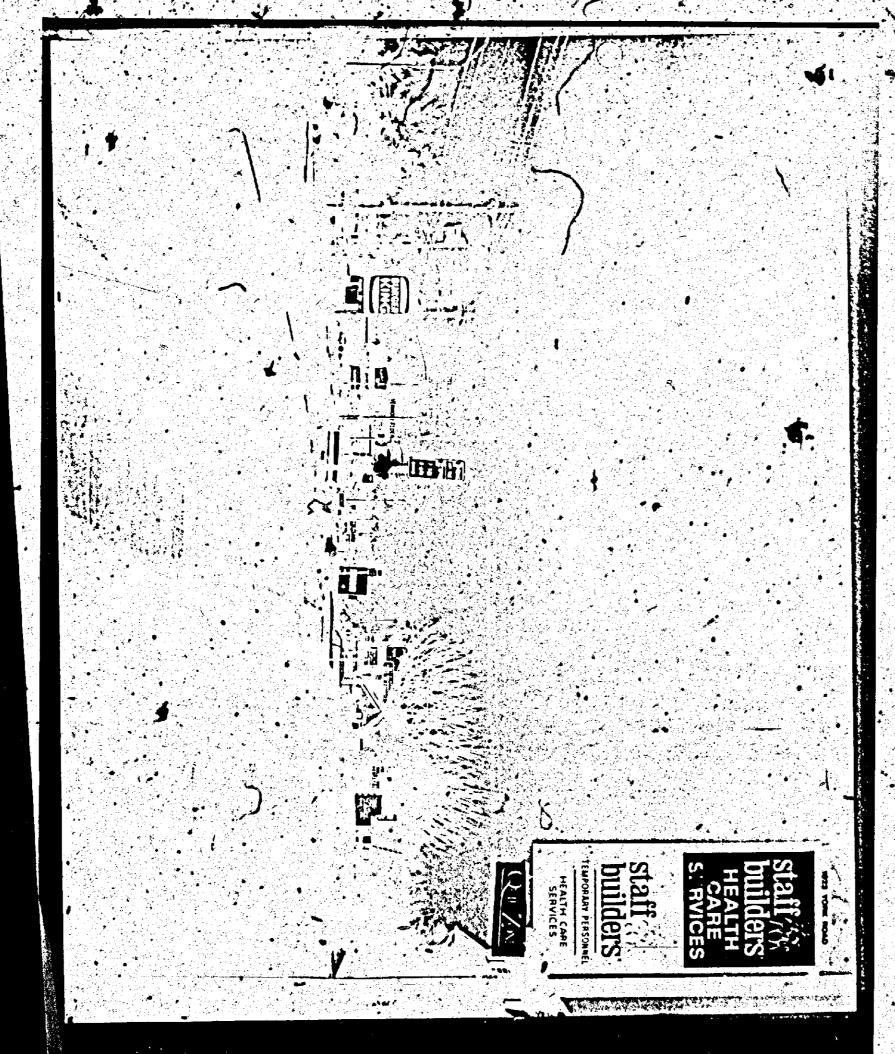
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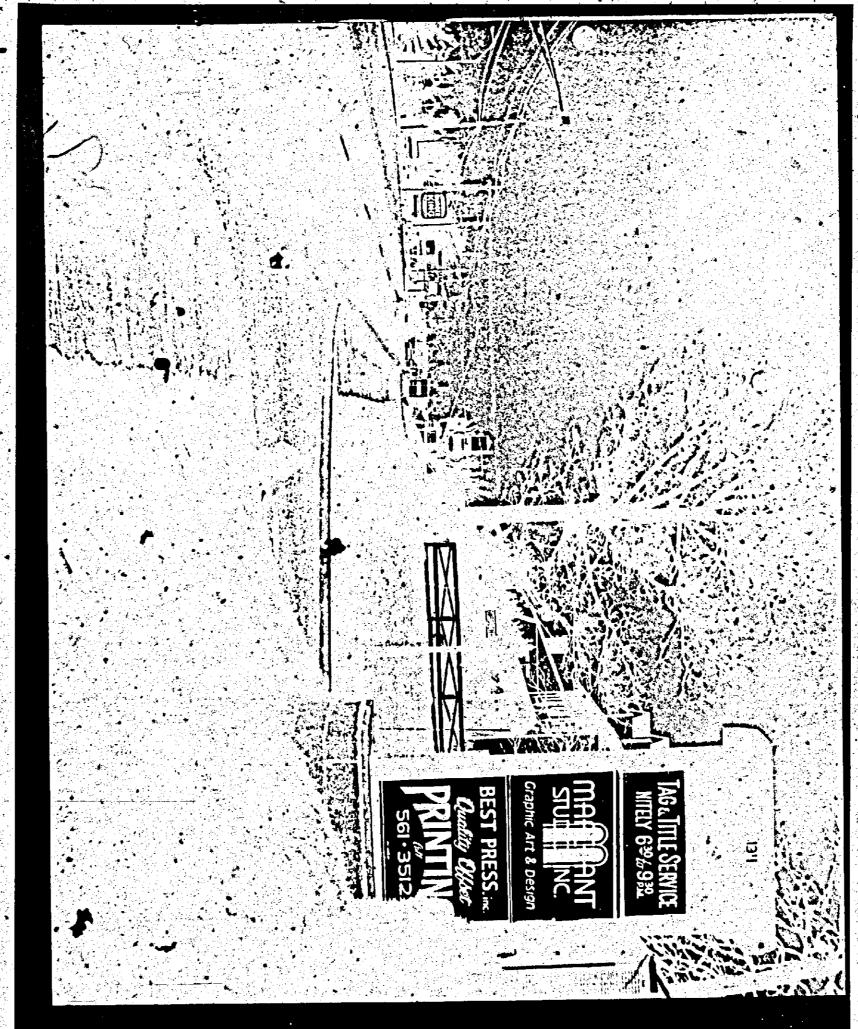
Please enter the appearance of the People's Counsel in the abovecaptioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

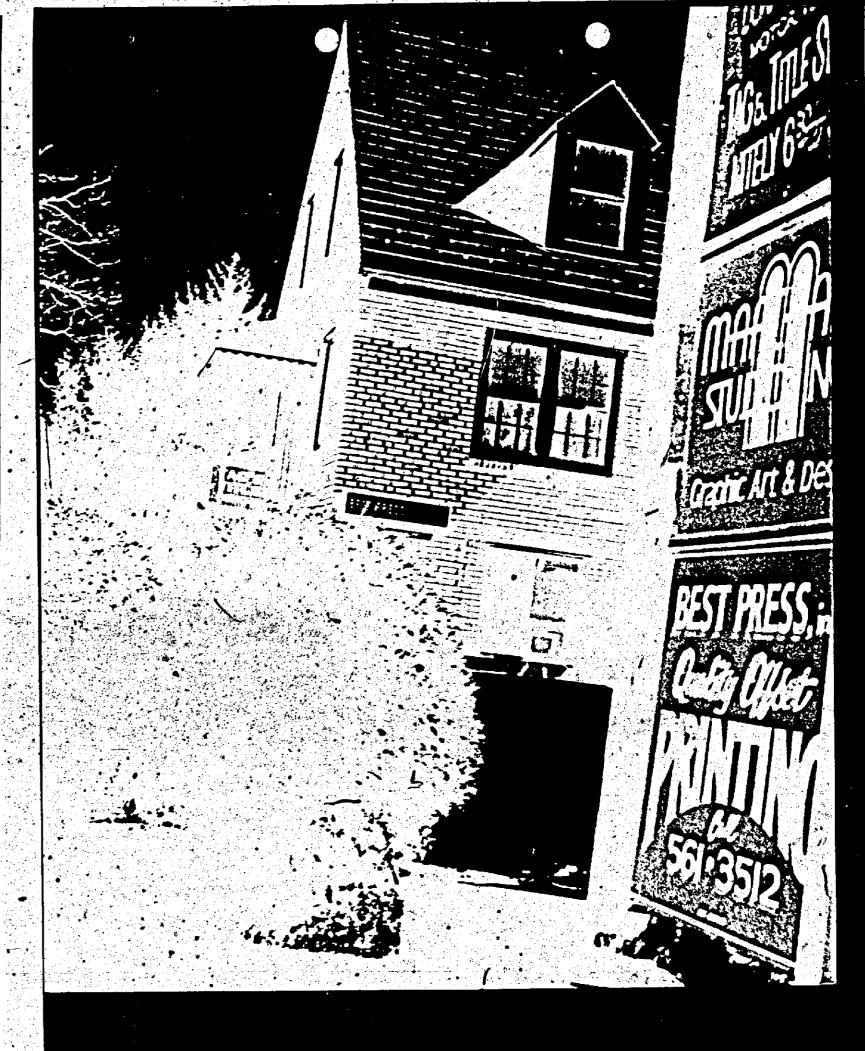
Phyllia Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
Towson, Maryland 21204
887-2188

I HEREBY CERTIFY that on this 30th day of June, 1989, a copy of the foregoing Entry of Appearance was mailed to Stuart D. Kaplow, Esquire, Suite 1700, 300 E. Lombard St., Baltimore, MD 21202, Attorney for Petitioners.









89-554-SPEA

Attorney

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Your petition has been received and accepted for filing this 26th day of April , 19 89.

James E. Dyer Petitioner Mark S. Blank, et ux Received by: Chairman, Zoning Plans Advisory Committee Stuart D. Raplow, Esquire

800 Neb. 137 NORTH WESTERN REPORTER, 2d SERIES facts and circumstances of each particular 179 Neb. 194 ALUMNI CONTROL BOARD, ALPHA PSI CASC.
CHAPTER, DELTA SIGMA PHI FRATERNITY, INC., Appellant, 3. Zoning of a sta nor see 3. Zoning 4-503 Criteria generally and properly before board of appeals on application for variance at the s CITY OF LINCOLN, a municipal corfrom area restrictions of zoning code are; (1) whether strict compliance with restricporation, Appailes. tions would unreasonably prevent applicant Na. 35949. from using property for permitted purpose or would render conformity with restric-Supreme Court of Nebraska. an area tions unnecessarily burdensome; (2) whethunder a Get. 29, 1965. er grant of variance would do substantial Zoning variance case. The District justice to applicant and other property case. Court, Lancaster County, Boyles, J., denied owners, or whether lesser relaxation than variance, and the plaintiff appealed. The applied for would give substantial relief Supreme Court, M. Cown, J., held that evionly if dence disclosed no such practical difficulty erty owners; and (3) whether spirit of as would justify such variance ir front, ordinance will be observed and public safety rear and side yard requirements of zoning and welfare secured by grant of relief. illegal. fraternity house large enough to account 4. Zoning 5.38 Evidence disclosed no such practical could be accommodated in a house which could be built within the zoning require- difficulty as would justify such variance in same a zoning provisions as would permit construc-tion of fraternity house large enough to accommodate 48 men instead of the 36 men who could be accommodated in a house which could be built within the zoning re-Ral Holst pellee 1. Zoping C=481 "Use variances" are-customarily con- quirements. cerned with hardship while "area variances" are customarily concerned with practical difficulty; a "use variance" is one which The acts of a board of zoning appeals TER permits a use other than that prescribed by perinits a use other than that prescribed by

zoning ordinance in a particular district;

are subject to review and reversal only if
they constitute an abuse of discretion and
they constitute an abuse of discretion and ER, change of use and is primarily a grant to are unreasonable, arbitrary or illegal. erect, alter, or use a structure for a permitted use in a manner other than that 8. Zoning 512 prescribed by restrictions of zoning ordi-The refusal to grant variance in offstreet parking requirements for fraternity in o house was not unreasonable nor arbitrary, See publication Words and Phrases zonir code. where zoning requirement was that offfor other judicial constructions and street parking be within 1200 feet and build variance requested was an additional 80 appe The disposition of case involving an feet and this total distance was so great 2. Zoning 493, 503 area variance and "practical difficulty" that the offstreet parking could not be under a zoning ordinance depends on the reasonably or effectively used.

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

DATE: July 17, 1989 TO: J. Robert Haines Zoning Commissioner

FROM: Pat Keller, Deputy Director Office of Planning and Zoning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

Case No. 89-554-SPHA Item No. 438

Re: Mark S. Blank, et ux

The Petitioners request a variance to allow 100% of the adjusted gross floor area to be occupied by dental (medical) offices in lieu of the permitted 25% and a special hearing to determine if such a variance may be granted. In reference to this request, staff offers the following

A waiver from CRG meeting and CRG Plan was granted by the Planning Board on April 14, 1989 (W-89-85).

This office is generally opposed to allowing more than the permitted 25% medical office use in R.O zoned building, however, it realizes the limitation created by not allowing conversion of individual dwellings for use by medical practitioners.

In order that they may be compatible with surrounding residential properties, the medical office should be restricted in the number of professional and non-professional employees.

Staff recommends that

1. the number of dentists having office hours be limited to 1 professional dentist with requisite support staffing and 2. no office visit should exceed 2 hours in length; and

3. the D.R.3.5 portion of the property should be landscaped and maintained as a residential lot; and 4. this parcel is located within a planned commercial corridor study area, at the time of building permit approval a streetscape program should be reviewed by the Office of Planning

and Zoning. A:71389.txt Pg.2

ZONING OFFICE

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Zoning Advisory Committee May 11, 1989 c/o Carl Richards

FROM Robert W. Bowling, P.E.

SUBJECT Item #438 (Blank Property)

PROPERTY OWNER: Mark S. Blank, et ux

NE/S Reisterstown Rd., 103.34' NW of centerline of Austin Rd. 4th Election District DISTRICT:

The Zoning Plan for the subject item has been reviewed by the Developers Engineering Division and we comment as follows:

GENERAL COMMENTS:

All improvements, intersections, entrances, drainage requirements and construction affecting a State Road right-of-way are subject to the Standards, specifications and approval of the Maryland State Highway Administration in addition to those of Baltimore County.

In accordance with Bill No. 56-82, dredging, filling or construction in any wetland is prohibited.

The Developer shall be responsible for damages to the County's facilities, such as water meters, manholes, curbs and gutters and innets within his subdivision. Occupancy Permits will be withheld until such damages have been corrected.

The Developer's Engineer shall investigate the need and obtain the necessary permits for the facilities serving this site that may require a "Corps of Engineer's Permit", a "Water Resources Permit", a "Water Quality Certification", and any other Federal or State Permits. These facilities cannot be sent to contract until such permits have been received.

STORM DRAINS AND SEDIMENT CONTROL COMMENTS:

The Developer is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall. The Developer's cost responsibilities include the acquiring of easements and rights-of-way - both onsite and offsite - and the deeding in fee of said rights-of-way to the County. Preparation of all construction, rights-of-way and easement drawings, engineering and surveys, and payment of all actual construction costs including the County overhead both within and outside the development, are also the responsibilities of the Developer.